

1
2 Roberta L. Steele, Regional Attorney
3 U.S. Equal Employment Opportunity Commission
4 San Francisco District Office
5 450 Golden Gate Ave, 5th Floor West
6 P.O. Box 36025
7 San Francisco, CA 94102

8 Damien Lee, Supervisory Trial Attorney
9 May Che, Senior Trial Attorney
10 Clive Pontusson, Trial Attorney
11 U.S. Equal Employment Opportunity Commission
12 Seattle Field Office
13 909 First Avenue, Suite 400
14 Seattle, WA 98104
15 may.che@eeoc.gov
16 Tel: (206) 576-3011
17 clive.pontusson@eeoc.gov
18 Tel: (206) 576-3042

19 ATTORNEYS FOR PLAINTIFF

20
21 IN THE UNITED STATES DISTRICT COURT
22 FOR THE EASTERN DISTRICT OF WASHINGTON

23 EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION

25 Plaintiff,

v.

AIR CONTROL HEATING & AIR
CONDITIONING, INC. d/b/a AIR
CONTROL HEATING &
ELECTRIC, INC.

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex (female) and to provide appropriate relief to Charging Party Rose Harrison, Charging Party Christi Elliott, and other similarly aggrieved female employees who were adversely affected by such practices. The Equal Employment Opportunity Commission (“Commission” or “EEOC”) alleges that Defendant Air Control Heating & Air Conditioning, Inc. d/b/a Air Control Heating & Electric, Inc. (“Air Control”) subjected Harrison, Elliot, and a class of similarly aggrieved female employees to a hostile work environment because of sex, female, and constructively discharged Elliott. Plaintiff seeks monetary and injunctive relief for Harrison, Elliott, and a class of similarly aggrieved female employees, including pecuniary damages, nonpecuniary compensatory damages, punitive damages, back pay, prejudgment interest, and front pay for Elliott in lieu of reinstatement.

JURISDICTION AND VENUE

1. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended,

1 42 U.S.C. §§ 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil
2 Rights Act of 1991, 42 U.S.C. § 1981a.

3 2. The employment practices alleged to be unlawful were committed
4 within the jurisdiction of the United States District Court for the Eastern District of
5 Washington.
6

7 PARTIES
8

9 3. Plaintiff EEOC is the agency of the United States of America charged
10 with the administration, interpretation and enforcement of Title VII, and is
11 expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII,
12 42 U.S.C. § 2000e-5(f)(1) and (f)(3), and Section 102 of the Civil Rights Act of
13 1991, 42 U.S.C. § 1981a .
14

15 4. At all relevant times, Defendant has been a corporation continuously
16 doing business in the State of Washington and has continuously had at least fifteen
17 (15) employees.
18

19 5. At all relevant times, Defendant has continuously been an employer
20 engaged in an industry affecting commerce within the meaning of Sections 701(b),
21 (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).
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ADMINISTRATIVE PROCEDURES

6. More than thirty (30) days prior to the institution of this lawsuit, Charging Party Elliott and Charging Party Harrison filed charges with the EEOC alleging violations of Title VII by Defendant.

7. On July 29, 2021, the Commission issued a Letter of Determination as to each of the above referenced charges to Defendant finding reasonable cause to believe Title VII was violated and inviting Defendant to join with the Commission in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and to provide appropriate relief for the Charging Parties and a class of similarly aggrieved female employees.

8. The Commission engaged in communications with Defendant to provide Defendant the opportunity to remedy the discriminatory practices described in the Letters of Determination.

9. The Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

10. On September 8, 2021, the Commission issued a Notice of Failure of Conciliation as to each of the above referenced charges advising that the Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

1 11. All conditions precedent to the institution of this lawsuit have been
2 fulfilled.

3 STATEMENT OF CLAIMS
4

5 12. Defendant employed Harrison, a female, as a Commercial and
6 Residential Estimator from approximately December 2009 to September 2018.

7 13. Defendant employed Elliott, a female, as a Secretary from
8 approximately January 2018 to early Spring 2019 and as a Dispatcher from
9 approximately March 2019 to September 2019.
10

11 14. Since at least January 2010, Defendant has engaged in unlawful
12 employment practices because of sex at or near its facility in or near Spokane
13 Valley, Washington, in violation of Section 703(a) of Title VII, 42 U.S.C. §
14 2000e-2(a), by subjecting the Charging Parties and other female employees to a
15 hostile work environment based on their sex, female, and constructively
16 discharging Elliott.
17
18

19 15. The practices complained of in paragraph 14 include but are not
20 limited to the following:
21

- 22 a. Defendant's Owner/President made unwelcome sexual comments,
23 sexually explicit innuendos, and sexual jokes to female employees
24 on a near daily basis;
25

- 1 b. Defendant's Owner/President made unwelcome comments about
2 female employees' bodies;
- 3 c. Defendant's Owner/President asked female employees to sit on his
4 lap or bend over;
- 5
6 d. Defendant's Owner/President slapped or spanked female
7 employees on the butt;
- 8
9 e. Defendant's Owner/President solicited hugs from female
10 employees;
- 11 f. Defendant's Owner/President remarked to a female employee that
12 "everybody loves giving anal sex but not everybody enjoys
13 receiving it";
- 14
15 g. Defendant's Owner/President told a female employee that she won
16 job contracts because of her breast size;
- 17
18 h. Defendant's Owner/President purposefully left condoms and
19 personal lubricant where a female employee would find them;
- 20
21 i. Defendant's Owner/President offered female employees tickets to
22 a nearby strip club;
- 23
24 j. Defendant's Owner/President leered at female employees' breasts
25 when speaking to them;

- 1 k. Defendant's Owner/President told female employees to "let the
2 girls out," a reference to exposing their breasts;
- 3 l. Defendant's Owner/President told female employees to wear more
4 revealing clothing;
- 5 m. Defendant's Owner/President asked a female employee to go on
6 dates with him;
- 7 n. Defendant's Owner/President asked a female employee to
8 accompany him to his lake house;
- 9 o. Defendant's Owner/President entered the office of a female
10 employee unannounced when he had been notified that she was in
11 the office breastfeeding her baby;
- 12 p. Defendant's Owner/President told a female employee that he
13 "wanted to kiss her lips down there," in reference to her genitals;
- 14 q. Defendant's Owner/President expressed disbelief that female
15 employees could perform their job duties because "they were
16 women";
- 17 r. Defendant's Owner/President stated that, "women aren't as good
18 as men are at this job," and "it should be a man's job";
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- 1 s. Defendant's Owner/President repeatedly stated that female
2 employees did not belong in the building trades because of their
3 sex;
4
- 5 t. Defendant's Owner/President responded to complaints of sexual
6 harassment from a female employee by stating, "this is why
7 women don't belong in this business";
8
- 9 u. Defendant's Owner/President responded to complaints of sexual
10 harassment from a female employee by stating her male colleagues
11 would be "nicer" to her if she "showed off the girls more," in
12 reference to her breasts;
13
- 14 v. Defendant's Owner/Vice President/HR Manager responded to
15 complaints of sexual harassment from a female employee by
16 stating the female employee "needed to learn how to work with
17 men";
18
- 19 w. Defendant's former Assistant Electrical Manager made comments
20 about what female employees were wearing that pleased him;
21
- 22 x. Defendant's former Assistant Electrical Manager told a female
23 employee to "let the girls out to play" in reference to her breasts;
24
- 25 y. Defendant's former Assistant Electrical Manager made derogatory
statements about women, including telling one female employee

1 that she would never be “good enough” in the workplace and that
2 “her place was in the home”.

3 z. Defendant’s former Assistant Electrical Manager physically
4 threatened Elliott by backing her against a wall while waiving his
5 fists in her face.
6

7 16. Prior to January 2019, Defendant did not have a written harassment
8 policy.
9

10 17. In or about December 2018, an HR consultant hired by the Defendant,
11 compared the company’s workplace culture to a “sewer” and criticized tolerating
12 Johnston’s behavior. The consultant recommended that the Defendant provide
13 training to its employees on sexual harassment but the Defendant did not provide
14 such recommended sexual harassment training to its owners, managers, supervisors
15 or employees as of at least approximately September 2021.
16
17

18 18. Defendant failed to take prompt or appropriate corrective action to
19 prevent or remedy the sexually hostile work environment despite female
20 employees reporting the offensive and unwelcome conduct based on sex from at
21 least approximately January 2010 to at least approximately September 2021.
22

23 19. Defendant’s failure to take prompt or appropriate corrective action in
24 response to the sexual harassment complaints of Elliott, Harrison, and other
25

1 similarly aggrieved female employees made the working conditions for Elliott so
2 intolerable that she felt forced to resign in September 2019.

3 20. The effect of Defendant's practices complained of in Paragraphs 14-
4 19 above has been to deprive Harrison, Elliott and other similarly aggrieved female
5 employees of equal employment opportunities because of their sex.
6

7 21. The unlawful employment practices complained of in Paragraphs 14-
8 19 above were intentional.
9

10 22. The unlawful employment practices complained of in Paragraphs 14-
11 19 above were done with malice or with reckless indifference to the federally
12 protected rights of Harrison, Elliott, and other similarly aggrieved female
13 employees.
14

15 PRAYER FOR RELIEF
16

17 Wherefore, the Commission respectfully requests that this Court:

18 A. Grant a permanent injunction enjoining Defendant, its officers,
19 successors, agents, assigns, and all persons in active concert or participation with
20 it, from engaging in any employment practices which discriminate based on sex,
21 female, including sexual harassment.
22

23 B. Order Defendant to institute and carry out policies, practices, and
24 programs which provide equal employment opportunities for all employees, and
25 which eradicate the effects of its past and present unlawful employment practices.

1 C. Order Defendant to make Elliott whole by providing appropriate back
2 pay with prejudgment interest, in amounts to be determined at trial, and/or other
3 affirmative relief necessary to eradicate the effects of Defendant's unlawful
4 employment practices described in Paragraphs 14-19 above including, but not
5 limited to, front pay compensation for Elliott in lieu of reinstatement in an amount
6 to be determined at trial.
7

8 D. Order Defendant to make Harrison, Elliott, and those similarly
9 aggrieved female employees whole by providing compensation for past and future
10 pecuniary losses resulting from the unlawful employment practices described in
11 Paragraphs 14-19 above, as appropriate, including past and future out-of-pocket
12 expenses, in amounts to be determined at trial.
13

14 E. Order Defendant to make Harrison, Elliott, and those similarly
15 aggrieved female employees whole by providing compensation for past and future
16 nonpecuniary losses resulting from the unlawful practices complained of in
17 Paragraphs 14-19 above, including without limitation compensation for emotional
18 pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.
19

20 F. Order Defendant to pay Harrison, Elliott, and those similarly
21 aggrieved female employees punitive damages for its malicious and reckless
22 conduct described in Paragraphs 14-19 above, in amounts to be determined at trial.
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1 G. Grant such further relief as the Court deems necessary and proper in
2 the public interest.

3 H. Award the EEOC its costs of this action.
4

5 JURY TRIAL DEMAND

6 The Commission requests a jury trial on all questions of fact raised by its
7 complaint.
8

9 DATED this 14th day of DECEMBER 2021

10 BY: /s/ Roberta L. Steele
11 Roberta L. Steele
12 Regional Attorney
13 EQUAL EMPLOYMENT
14 OPPORTUNITY
15 COMMISSION
16 San Francisco District Office
17 450 Golden Gate Ave, 5th Floor West
18 P.O. Box 36025
19 San Francisco, CA 94102
20 Telephone (415) 522-3150
21 roberta.steele@eeoc.gov

GWENDOLYN YOUNG REAMS
Acting General Counsel

CHRISTOPHER LAGE
Deputy General Counsel

Office of the General Counsel
131 "M" Street NE
Washington, D.C. 20507

19 BY: /s/ Damien A. Lee
20 Damien A. Lee
21 Supervisory Trial Attorney
22 EQUAL EMPLOYMENT
23 OPPORTUNITY
24 COMMISSION
25 Seattle Field Office
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone (206) 576-3038
damien.lee@eeoc.gov

BY: /s/ May Che

1 May Che
2 Senior Trial Attorney
3 Seattle Field Office
4 909 1st Avenue, Suite 400
5 Seattle, Washington 98104-1061
6 Telephone (206) 576-3011
7 Facsimile (206) 220-6196
8 may.che@eeoc.gov

9 BY: /s/ Clive Pontusson
10 Clive Pontusson
11 Trial Attorney
12 Seattle Field Office
13 909 1st Avenue, Suite 400
14 Seattle, Washington 98104-1061
15 Telephone (206) 576-3042
16 Facsimile (206) 220-6196
17 clive.pontusson@eeoc.gov

18 Attorneys for Plaintiff EEOC
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DATED this 14th day of December 2021

/s/ Rebecca Eaton
REBECCA EATON
Paralegal Specialist
EEOC Seattle Field Office
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone: 206-576-3028
Email: rebecca.eaton@eeoc.gov